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CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CONTROLLER

HUMAN RIGHTS COMMISSION:

The Joint Venture of DeSilva
Gates/Ramirez Met the
Objectives for Minority
Business Enterprise
Participation in Its Contract
With the Airport

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Edward Harrington
Controller

Monique Zmuda
Deputy Controller

August 14, 2002

Audit Number 01058

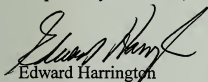
San Francisco Airport Commission
San Francisco International Airport
San Francisco, CA 94128

President and Members:

The Controller's Audits Division presents its audit report concerning the construction contract between the Airport Commission (Airport) and DeSilva Gates/Ramirez—A Joint Venture (joint venture) for construction of Phase A of the Multimodal Transportation Center at San Francisco International Airport. To comply with the San Francisco Administrative Code, we conducted this audit to verify whether the joint venture met the participation commitment for Ramirez Developers Corporation (Ramirez), the minority business partner.

Because the Airport reduced work on the contract that Ramirez would have performed, the joint venture did not meet the contracted participation levels for Ramirez. Nonetheless, the joint venture complied with the Human Rights Commission's objectives for minority business enterprise participation in the contract.

Respectfully submitted,


Edward Harrington
Controller

INTRODUCTION

BACKGROUND

The Airport Commission (Airport) of the City and County of San Francisco (City) entered a contract on October 18, 1999, with DeSilva Gates/Ramirez—A Joint Venture (joint venture) for the construction of Phase A of the multimodal transportation center, which will accommodate various types of transportation such as shuttle buses and taxis, at the San Francisco International Airport. Ramirez Developers Corporation (Ramirez), a partner in the joint venture qualifies as a certified minority business enterprise (MBE) under the San Francisco Administrative Code (Administrative Code), Chapter 12D.

Known as the Minority/Women/Local Business Utilization Ordinance (ordinance), Chapter 12D is intended to correct identified discriminatory practices inherent in the City's procurement processes and in the awarding of prime contracts to minority and women business enterprise contractors. The ordinance establishes various bid discounts for joint ventures that have minority-owned, women-owned, or local business enterprises as joint venture partners. A bid discount is a reduction in the price of the bid so that the contractor's bid is more favorable when compared to the other bids. The ordinance requires the City's contract-awarding authorities to make good-faith efforts to solicit and obtain bids from business enterprises owned by minorities and women.

Under the ordinance, the director of the Human Rights Commission is to keep a database, the Citywide Diversity Tracking System, to report on the progress each city department has made towards the achievement of the participation goals for minority and women business enterprises. In addition, the Human Rights Commission's rules and regulations require city departments to enter into this database accurate and complete information for their contracts on a timely basis.

To qualify as a minority business enterprise (MBE) under the ordinance, businesses like Ramirez must receive certification from the Human Rights Commission, which determines whether the enterprise is an economically disadvantaged local business owned and controlled by one or more minority persons. For the City's contracts with joint ventures that include at least one certified

MBE partner, to qualify for the bid discount the joint venture must commit how the MBE partner will participate in the joint venture.

The joint venture of DeSilva Gates/Ramirez committed to Ramirez's performing specified bid items for the Airport's contract. To calculate the applicable bid discount, the joint venture estimated that the costs of Ramirez's bid items would total \$1,288,500, or 43 percent, of the joint venture's specified bid items, which would cost a total of \$3,040,981. The joint venture committed the remaining contract amount of \$3,067,929 to subcontractors that would work on the project. Because Ramirez's participation in the joint venture equaled or exceeded 40 percent, the joint venture received the 7.5 percent bid discount points specified in the ordinance.

According to the Airport's project manager, the joint venture substantially completed construction work by January 9, 2001. The Airport closed the contract on April 1, 2002.

SCOPE AND METHODOLOGY

The Administrative Code, Chapter 12D, defines minority and women business enterprises for purposes of city contracts and requires the director of the Human Rights Commission, in cooperation with the Office of the Controller, to audit 10 percent of the joint ventures granted bid discounts each fiscal year. The purpose of these audits is to ensure that joint ventures properly meet their commitments to use minority-owned, women-owned, or local business enterprises as joint venture partners. In cooperation with Human Rights Commission staff, we randomly selected for audit the contract between the City and DeSilva Gates/Ramirez—A Joint Venture.

Specifically, we determined whether Ramirez, the joint venture's MBE partner, participated in the contract according to participation levels committed to by the joint venture and whether Ramirez actually performed the work. We also assessed the accuracy and completeness of key information in the Citywide Diversity Tracking System. The audit covered October 18, 1999, through August 31, 2001, by which the joint venture had received all payments except the final contract payment.

To conduct the audit, we verified whether the Human Rights Commission certified Ramirez as an MBE when the Airport awarded the contract. To determine whether Ramirez properly

participated in the contract and whether it had achieved the contract's participation goals, we reviewed the joint venture's operating procedures and records as well as Ramirez's records. We determined whether the joint venture had paid Ramirez for the bid items that Ramirez had committed to complete. To determine whether Ramirez performed the work specified, we reviewed a sample of Ramirez's records, including payroll records, daily work reports, and supplier invoices.

Additionally, we conducted interviews with personnel of the Airport Department and with staff of each joint venture partner. To evaluate the information in the Citywide Diversity Tracking System, we reviewed key information that the Airport entered in the system and investigated any discrepancies.

AUDIT RESULTS

THE JOINT VENTURE COMPLIED WITH THE HUMAN RIGHTS COMMISSION'S OBJECTIVES FOR MINORITY BUSINESS ENTERPRISE PARTICIPATION

DeSilva Gates/Ramirez—A Joint Venture (joint venture) complied with the Human Rights Commission's objectives for obtaining minority business enterprise participation in contracting with the City. The joint venture committed its minority partner, Ramirez Developers Corporation (Ramirez), to performing 5 of the 17 bid items that the joint venture partners originally contracted to perform. Of these 5 bid items, the Airport canceled 2 bid items and added 1 bid item, for a net of 4 bid items that Ramirez would complete. Our tests showed that Ramirez performed the 4 contracted bid items.

As of August 31, 2001, the joint venture paid Ramirez a total of \$993,654 for the work that Ramirez performed on the contract. Ramirez did not receive the entire amount of \$1,288,500 initially specified in the joint venture's bid due to the Airport canceling some bid items, the joint venture and the Airport adjusting some expense items, and a dispute over Ramirez's reporting of its payroll.

Although Ramirez could not provide certified payroll reports for 5 days of the 24 days that Ramirez worked on the project for the two months we reviewed, we found sufficient evidence to show that Ramirez performed the work for which it received payment. To verify that Ramirez had its employees working on this contract, we reviewed a sample of Ramirez's daily work reports and found that the employees listed on the daily work reports were the same as the employees listed on the certified payroll reports submitted by Ramirez to the Airport. To verify that Ramirez actually purchased materials, rental equipment, or services that it used on this contract, we examined a sample of daily work reports. Although Ramirez did not have some supporting documentation on file for all suppliers, we found that the names of the suppliers listed on the reports were generally supported by delivery notes or invoices submitted by the suppliers to Ramirez. In addition, for these suppliers, we determined that the types of services provided appear consistent with the bid items that Ramirez performed.

THE AIRPORT GENERALLY ENTERED COMPLETE, ACCURATE INFORMATION IN THE CITYWIDE DIVERSITY TRACKING SYSTEM

The information that Airport staff entered in the Citywide Diversity Tracking System was accurate in the fields we tested. We selected several fields from the Citywide Diversity Tracking System, including those for the contract award amount and for total payments to the joint venture, to determine whether the Airport entered complete, accurate information for this contract. Our analysis found that the information is correct and complete.

We conducted this review according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

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cc: Mayor
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